IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

TAKEN-UP WRIT PETITION No. 9836 of 2004

Between:

Fax Message of Co-Convenor and two others of Indian National Trust for Arts and Cultural Heritage,
Visakhapatnam.

..... PETITIONER

AND

1.The Commissioner of Municipal Corporation, Visakhapatnam.
2.The Vice-Chairman, Visakhapatnam Urban Development Authority, Visakhapatnam.
3.The District Collector, Visakhapatnam.

4.The State of A.P. rep. by its Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad.

(R4 is impleaded as per Court order dated: 18.6.2004 in WP 9836/04).

5. Smt.U.Janaki W/o Narasimha Rao

aged about 51 years

R/o Flat No. 201, Plot No.44

Road No.2, Sri Sai Lalitha Nilayam

West Maredpally, Secunderabad-26.

6. M.Rama Krishna S/o late Ganeswara Rao,

aged about 47 years

R/o Alamuru village & Mandal

East Godavari District.

7. O.A.Satya Murthy, S/o Bapineedu

aged about 54 years,

R/o Tilak Road, Wadrvunagar

Rajahmundry, East Godavari District.

(RR 5 to 7 are impleaded as per court order dated: 16.7.2004 in WPMP No.15658 of 2004)

8. Challa Sreenivasa Rao, S/o Appanna, aged 40 years

Male, Hindu, R/o 6-15-17, East Point Colony

Visakhapatnam-17.

9. Bobba Satyanarayana Murthy, S/o China Veeranna

aged 63 years, Male, Hindu, East Point Colony

Visakhapatnam-17.

10. Bobba Jayasree, W/o Satyanarayana Murthy

aged 55 years, Hindu, Female, East Point Colony,

Visakhapatnam-17.

11. Oruganti Bharati, W/o Rammohan

aged 54 years, Hindu, Female

East Point Colony, Visakhapatnam-17.

12. Oruganti Suryanarayana, S/o Bapineedu

aged 53 years, Male, Hindu, East Point Colony,

Visakhapatnam-17.

(RR 8 to 12 are impleaded as per Court order dt:31.8.2004 in WPMP No.18500 of 2004).

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that for the reasons stated in the Fax Message the High Court will be pleased to issue an Order, direction, or a Writ more particularly one in the nature of Writ of Mandamus calling for remarks and records from the Respondents herein in and connected to (1) listing of the building bearing No. 15-1-37 in ward No. 19 of Visakhapatnam Municipality of Heritage building by VUDA and INTACH (2) Occupation of the said building by Vice-Chancellor of Andhra University, and (3) granting of permission to demolish the

said building by Municipal Corporation of Visakhaptnam and to pass appropriate orders directing the concerned authorities to revoke the demolition proceedings.

Counsel for the Petitioner:Through Fax message(Taken-up matter)

Counsel for Respondent No.1: Mr. T.S.Venkataramana

Counsel for Respondent No.2 : -----

Counsel for Respondents 3 &4: G.P. for Municipal Administration & Urban Development

Counsel for Respondents 5 to 12: Smt N(P) Anjana Devi

The Court made the following :

ORAL ORDER:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

Letter received from the Indian National Trust for Arts and Cultural Heritage, Visakhapatnam Chapter was registered as Taken-up Writ Petition. In the letter, reference was made to building bearing No.15-1-37 in Ward No. 19 of Visakhapatnam Municipality that the said building was the residence of former President of India, Dr.Sarvepalli Radhakrishnan and that it had been demolished unauthorisedly around midnight of 7th June, 2004 despite best efforts on the part of the members of the Visakhaptnam Chapter of Indian National Trust for Arts and Cultural Heritage to save the same. The letter also pointed out 82 more buildings along with the building in question, which are listed as heritage buildings by the Trust and proposal to declare these buildings as heritage buildings of national importance is pending with the Government. Government of Andhra Pradesh has not taken any action on this particular matter for the last number of years. Absence of notification by the Government declaring the buildings as heritage buildings will cause much loss. Therefore, the Trust requested to issue appropriate directions to the Government to notify them as heritage buildings and for restoration of the

property.

The Commissioner, Municipal Corporation of Visakhapatnam has filed affidavit in reply stating that building in question did not have any historical or architectural importance, and, at no point of time, the building was declared as having any historical or architectural importance. It was also not declared to be a heritage building. May be that proposal is pending, but, so long as notification is not issued, the property cannot be said to be a heritage building. It is also stated that the Corporation issued notice on 11.6.2004 under Rule 15.2 of Municipal Corporation Building Bye-laws, 1981. Basing on the said notice, M.Ramakrishna, owner of the building, referred to the earlier notice dated: 7.11.1991 issued to the then occupier Sri O.Rammohan, who is also the cousin of M.Ramakrishna to remove the building, under Section 456 of Hyderabad Municipal Corporation Act, since the building was in dilapidated condition and was likely to cause danger to the occupiers. Instead of removing the building, the occupier filed Civil Suit being O.S.No. 1029 of 1991 in the Court of I Additional District Munsif Court, Visakhapatnam. Suit was contested by the owner. Initially, injunction was granted. In the meanwhile, occupier died in the year 1994 and his legal heirs did not pursue the suit, and, accordingly, suit was dismissed. It is also stated that the owners had already demolished the building. Owner is represented before us and also states that building in question has since been demolished. In view of the fact that building has since been demolished and has not been declared as heritage building, no directions can be issued in that regard.

In so far as the second aspect brought to the notice of the Court as regards the declaration of other buildings as heritage buildings is concerned, petitioner has to first approach the concerned authorities before approaching the Court with facts and figures, and, we have no doubt that in case representation is submitted, Government will act on that. Since the petitioner has approached the court without first approaching the authorities, no direction can be issued in this Writ Petition on that count.

In view of the above, the Writ Petition is closed. No costs.

DEVINDER GUPTA, C.J.

31.8.2004.

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C.V. RAMULU, J.

VR.

To

1.The Commissioner of Municipal Corporation, Visakhapatnam.
2.The Vice-Chairman, Visakhapatnam Urban Development Authority, Visakhapatnam.
3.The District Collector, Visakhapatnam.

4.The State of A.P. rep. by its Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad.

5. The Special Officer, Public Interest Litigation Cell, High Court Buildings, Hyderabad.

6. The Secretary to Government of A.P., Home Department, Secretariat, Hyderabad.

7. Two CCs to Government Pleader for Municipal Administration and Urban Development Authority, High Court Buildings, Hyderabad.

8. Two CD copies.